

FILED BY Whe D.C.IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISIONFILED BY AW D.C.

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ROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHISROBERT R. DI TROLIO
CLERK, U.S. DIST. CT.
W.D. OF TN, MEMPHIS

Plaintiff,

vs.

TERRY LEE DOWNS,
Defendant.

MOTION GRANTED

Reset To Surrender
in Aug 17, 2005JON PHIPPS McALLA
U.S. DISTRICT JUDGE

JUNE 13, 2005

DATE

SUPPLEMENTAL REQUEST TO RESET SURRENDER DATE

Comes now Terry Lee Downs, by and through his attorney of record, T. Clifton Harviel, and respectfully requests that this Honorable Court reset his surrender date. Movant would show unto the Court that he entered a guilty plea to a charge of violation of probation and that the Court sentenced him to a period of six months incarceration, followed by further supervision. Mr. Downs has previously received an extension of his surrender date and is currently due to surrender on June 15, 2005.

As Mr. Downs has previously shown unto the Court, he is a contractor. At the time of his original request he was engaged in two particular jobs and he respectfully requested time to finish them before surrendering to do his sentence. With regard to the job at 5297 Callingwood, the home of Mr. Billy Tedford and one of those two original jobs, Mr. Downs has run into inadvertent delays.

The first problems began when a change order was issued by the homeowner. The change order called for the moving of a bathroom

wall, which is normally a delay but which became much more labor intensive, complicated and a greater delay than normal when the first two marble tiles were removed. Upon removing the first two tiles, the heated floor underneath the tiles was damaged. Therefore, the entire bathroom floor had to be removed, the heated floor repaired, and then all the marble tiles returned. All the bathroom fixtures and walls had to be moved to accommodate the change order. Those delays caused other delays regarding subcontractors and when they could appear to do their rescheduled work. Further, there was another delay due to the unavailability of materials. The DBM Flooring Plant was damaged in a fire and therefore, there has been a limited amount of DBM flooring available for contractors. Mr. Downs has had difficulty in securing the appropriate material and therefore has encountered additional delay.

Mr. Downs understands that he has a six month sentence to satisfy and he is not seeking to avoid the service of his sentence. He is, however, seeking to avoid damaging both his professional reputation and the innocent customer whose home he is remodeling. The Court may recall that the homeowner, Mr. Tedford, submitted a signed statement concerning the work Mr. Downs was doing. Said statement was attached to the initial request to reset the surrender date.

Mr. Downs is thankful for and grateful to the Court for the

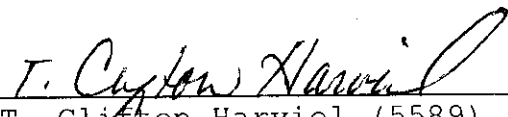
time that it has extended to him by initially resetting the surrender date. Unfortunately, he has not been able to complete the Tedford job due to aforementioned delays, which were beyond his control. He is respectfully requesting that the Court delay his surrender date an additional eight weeks to allow him to finish the Tedford job.

Mr. Downs understands that the Court has no obligation to reset his surrender date. He assures the Court that this will not become a repetitive request. He simply requests a second extension due to circumstances which were beyond his control.

WHEREFORE, PREMISES CONSIDERED, movant respectfully prays:

1. This Court reset his surrender date for an additional period of eight weeks herein, and/or;
2. That this Court order such other relief herein as truth dictates and justice demands.

Respectfully submitted,



T. Clifton Harviel (5589)
Attorney for Defendant
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Certificate of Service

I hereby certify that I have served a copy of the foregoing upon Mr. Tim DiScenza, Assistant United States Attorney, 167 N. Main Street, 8th Floor, Memphis, Tennessee 38103, this 9th day of June, 2005.


T. Clifton Harviel



Notice of Distribution

This notice confirms a copy of the document docketed as number 39 in case 2:03-CR-20181 was distributed by fax, mail, or direct printing on June 14, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT